

REMARKS

Claim 9 is amended, claim 33 is canceled, and new claim 34 is added. Support is found, for example, at page 41, lines 3-19 and the paragraph bridging pages 41-42.

I. Claim Rejection under 35 U.S.C. § 112, 1st Paragraph

Claim 33 is rejected under 35 U.S.C. § 112, 1st paragraph, as allegedly being non-enabled.

The Examiner states that antibodies 45531.111 and 45523.111 recited in claim 33 are essential to the claimed invention and the reproduction of antibodies from hybridomas is an extremely unpredictable event. Thus, Applicants must demonstrate that the same antibodies are obtainable by a repeatable method set forth in the specification or otherwise readily available to the public or, in the alternative, provide a Statement of Availability in accordance with the Patent Office rules.

Claim 33 is canceled herein thereby rendering the rejection as to this claim moot.

Applicants provide the following with respect to present claims 9 and 34.

Applicants respectfully submit that the 45531.111 antibody and the 45523.111 antibody are commercially available from R&D as described in the specification, for example at page 41, lines 24-26. Also, they are on sale by the following companies:

*** Clone 45523.111**

Santa Cruz Biotechnology Inc (Cat.No:sc-57070)
Affinity BioReagents (Cat.No:MA1-24666)
abcam (Cat.No:ab10397)
Gene Tex Inc (Cat.No:GTX10397)
Novus biologicals □ Cat.No:NB120-10397)

*** Clone 45531.111**

Neuromics (Cat.No:MO15077).

. Accordingly, the 45531.111 antibody and the 45523.111 antibody are available for the public, and the enablement requirement is satisfied.

In view of the above, Applicants respectfully request withdrawal of the §112, 1st paragraph rejection.

II. Response to Claim Rejection under 35 U.S.C. § 112, 2nd Paragraph

Claims 9 and 33 are rejected under 35 U.S.C. § 112, 2nd paragraph, as allegedly being indefinite.

Specifically the Examiner objects to the term “strong binding site” as a relative term. The Examiner suggests deleting the word “strong” to overcome the rejection.

The Examiner also objects to the phrase, “the antibody has the property of not binding to CCR5”.

Additionally, the Examiner states that the phrase “or an isotype control of the labeled anti-CCR5 antibody” is confusing.

Claim 33 is canceled herein thereby rendering the rejection as to claim 33 moot.

Claim 9 is amended herein, thereby obviating the rejection.

Also, the 45531.111 antibody or the 45523.111 antibody and its isotype control are not allowed to react at the same time. Accordingly, the isotype control does not bind to the 45531.111 antibody or the 45523.111 antibody.

In view of the above, Applicants respectfully request withdrawal of the §112, 2nd paragraph rejection.

III. Response to Rejection under 35 U.S.C. § 103

The Examiner maintains the rejection of claim 9 under 35 U.S.C. § 103 as allegedly being unpatentable over WO '826.

The Examiner also maintains the rejection of claim 9 under 35 U.S.C. § 103 as allegedly being unpatentable over US '625.

Without conceding the merits of the rejection, claim 9 is amended herein. As amended, the presently claimed method for measuring an occupying ratio of a receptor has the following unobviousness features.

- * The compound which binds to the strong binding site is capable of continuously binding to the receptor. Accordingly, the compound which binds to the strong binding site is important.
- * The epitope of the 45531.111 antibody or the 45523.111 antibody is the strong binding site of CCR4, and the antibodies are very important for measuring an occupying ratio of a compound which binds to the strong binding site.
- * The antibody in which the strong binding site is not an epitope cannot be used for measuring an occupying ratio of a compound which binds to the strong binding site.

Thus, the present invention is characterized by the method for measuring an occupying ratio of a receptor for a compound which binds to the strong binding site. The antibody suitable for measuring the occupying ratio of a receptor for a compound which binds to the strong binding site was found for the first time in the present invention. The cited references, whether taken alone or in combination, do not teach or suggest this feature of the present invention. For at least this reason, the present invention is not rendered obvious.

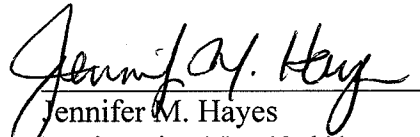
Accordingly, Applicants respectfully request withdrawal of the §103 rejections.

IV. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,


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